

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

DAN AND JEAN MCCARTY, et al.,	)	
	)	
Plaintiffs,	)	
	)	Hon. Mary Ellen Coster Williams
v.	)	
	)	No. 1:14-cv-00316 MCW
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

**LANDOWNERS' MOTION FOR ATTORNEY FEES AND EXPENSES UNDER  
THE UNIFORM RELOCATION ACT AND LOCAL RULE 54(d)**

The landowners request payment of their attorney fees and litigation expenses under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), 42 U.S.C. §4654(c), and RCFC 54(d), as follows:

1. Local Rule 54(d)(2) provides that “[a] claim for attorney’s fees and related nontaxable expenses must be made by motion. ...” The URA provides that the prevailing landowners are entitled to their attorneys’ fees and other reasonable expenses incurred in the litigation.

2. The landowners bringing this motion reached a settlement with the United States regarding their claims. *See* Declaration of Mark F. (Thor) Hearne, II (Exhibit 2), ¶ 17; Doc. No. 110 (Motion to Compel referencing settlement).

3. The unadjusted and unenhanced lodestar fee for the hours each timekeeper has devoted to this litigation is \$1,395,134 for work through August 31, 2016.

4. The lodestar fee has been calculated using the usual hourly rates Arent Fox charges private clients for comparable federal litigation. The time devoted to this litigation was reasonable and necessary and sound billing judgment was exercised.

5. The owners’ counsel paid expenses of \$218,885. These expenses are for expert

witness fees and other out-of-pocket expenses. The detailed billing entries supporting this lodestar fee as well as a detailed description of the litigation expenses are attached as Exhibit 1 (to be filed under seal).<sup>1</sup>

6. The landowners also provide the declarations of Mark F. (Thor) Hearne, II (Exhibit 2), Elizabeth Munno (Exhibit 3), Dr. Michael Kavanaugh (Exhibit 4), Dr. Laura Malowane (Exhibit 5 and supplemental declaration, Exhibit 6), and James C. Tucker, Esq. (Exhibit 9) as additional support for the reasonableness of this unadjusted lodestar fee.

7. The landowners further provide surveys of prevailing market rates including the most recent *PriceWaterhouseCoopers* survey and the *National Law Journal Billing Survey* (Exhibit 7 – to be filed under seal). These surveys demonstrate Arent Fox’s hourly rates are consistent with, or lower than, the hourly rates charged by comparable firms for comparable litigation in Washington DC.

8. The landowners have moved to compel production of the Justice Department’s time and expense records and will file these records in support of this motion when the government provides those records.

9. Finally, the landowners provide a copy of the transcript from a hearing in *Biery v. United States*, where the government’s lawyer admitted this Court should accept Arent Fox’s rates as consistent with the prevailing market rates in Washington DC. (Exhibit 8).

---

<sup>1</sup> See accompanying Request for Leave to File Exhibit under Seal.

Accordingly, we ask this Court to award \$1,395,134 in legal fees and \$218,885 in reasonable expenses incurred by the owners in this litigation for work through August 31, 2016.

Date: September 29, 2016

Respectfully submitted,

**ARENT FOX, LLP**

/s/ Mark F. (Thor) Hearne, II  
MARK F. (THOR) HEARNE, II  
Lindsay S.C. Brinton  
Meghan S. Largent  
1717 K Street, NW  
Washington, D.C. 20006

112 S. Hanley Road, Suite 200  
Clayton, MO 63105  
Tel: (314) 296-4000  
Fax: (202) 857-6395  
thornet@ix.netcom.com  
lindsay.brinton@arentfox.com

*Counsel for Landowners*